



IT IS ORDERED as set forth below:

Date: January 03, 2008

James E. Massey

James E. Massey
U.S. Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:

CASE NO. 06-75803

Richard Sullivan,

CHAPTER 13

Debtor.

JUDGE MASSEY

ORDER DENYING MOTION TO WITHDRAW

Debtor's counsel, Clark & Washington, P.C., filed a somewhat cryptic motion for an order permitting the firm to withdraw from representing Debtor Richard Sullivan on the ground of a "conflict of interest." The case has been pending about one year. The fee arrangement set out in the plan calls for a fee of \$3,500. It is not clear how much of that fee has been paid and whether the entire fee will have been earned if the Court permits the firm to withdraw.

Neither the motion nor the correspondence to the client attached to the motion complied with Bankruptcy Local Rule 9010-5 dealing with withdrawal. The language used in the motion and the letter obfuscated the right of Mr. Sullivan to object. It may well be that Mr. Sullivan has

no objection and created a conflict himself, but the Court has no way of knowing the precise facts.

In particular without stating all of the problems with the form of the motion and the letter to Mr. Sullivan, the motion failed to comply with BLR 9010-5(b)(2), which states, “[t]he motion shall be accompanied by a notice to the client that any objection to the motion must be filed within ten days after its service and the address of the Bankruptcy Clerk’s office where the objection may be filed.” The motion contains no such notice. It did include a letter from Philip DeHart dated December 14, 2007 to Mr. Sullivan concerning the withdrawal that stated in the last paragraph:

You have the right to object to my withdrawal as your counsel. If you file an objection with the Clerk’s office, the Court will set a hearing into the issues raised therein. If you do not file an objection, then the Court may enter an order allowing me to withdraw without further notice of hearing.

As mentioned above, however, the motion to withdraw was not Mr. DeHart’s motion. It is the motion of the entire firm. The motion does not include a notice that Mr. Sullivan had ten days “after its [the motion’s] service” to file an objection. The notice in the letter failed to tell Mr. Sullivan that he had ten days from the date the letter was sent (service of which the Rule requires before the motion is filed) within which “to contact the attorney and state any objections to the attorney’s withdrawal.” BLR 9010-5(1)(F).

Because the letter to the Debtor mentioned only Mr. DeHart’s withdrawal and did not state that the firm was seeking to withdraw and because neither the motion nor the letter of withdrawal complied with BLR 9010-5, the motion to withdraw is DENIED. If Clark & Washington files another motion to withdraw, it must schedule a hearing on that motion on notice to the Debtor and the Trustee.

END OF ORDER